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GOVERNMENT OF KERALA

Revenue Department

NOTIFICATION

No. G. O. (MS) 520(1)/81/RD. *Dated, Trivandrum, 9th May* 1981.

S. R. O. No. 551/81.—In exercise of the powers conferred by sub-section (1) of section 17 of the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 (3 of 1981) the Government of Kerala hereby direct that the powers conferred on them under sections 3, 4, 5, 13 and 14 of the said Ordinance shall be exercisable by the District Collectors also within their respective jurisdictions.

By order of the Governor,
V. Krishnamurthy,
Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate its general purport.)

Section 17(1) of the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 provides for the delegation of the powers of the Government conferred under the said Ordinance to any Officer or authority subordinate to it. This notification is intended to delegate the powers of the Government under sections 3, 4, 5, 13 and 14 of the said Ordinance to the District Collectors also.

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GOVERNMENT OF KERALA

Revenue Department

NOTIFICATION

G. O. (MS) 520(2)/81/RD. *Dated, Trivandrum, 9th May* 1981.

S. R. O. No. 552/81.—In exercise of the powers conferred by section 22 of the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 (3 of 1981) the Government hereby make the following rules, namely:—

RULES

1. *Short title and commencement.*—(i) These rules may be called the Kerala Requisitioning and Acquisition of Property Rules, 1981.

(ii). They shall come into force at once.

2. *Definitions.*—In these rules, unless the context otherwise requires,—

(a) "Collector" means the Collector of the District concerned.

(b) 'Form' means a form appended to these rules;

(c) 'Ordinance' means the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 (3 of 1981);

(d) 'Section' means a section of the Ordinance.

3. *Need for requisitioning of a property to be communicated to the Collector.*—Whenever the Head of a Department is of opinion that any property is needed for a public purpose, not being the purpose of the Union, and that the property should be requisitioned, he shall communicate the fact to the Collector in which the property is situate and furnish him with information regarding the location and such other particulars as are necessary for the identification of the property and shall state the purpose for which it is required.

4. *Collector to cause preparation of details of property to be requisitioned.*—(1) On receipt of the communication under rule 3, or if the Collector himself is of opinion that any property is needed for a public purpose, not being the purpose of the Union and that the property should be requisitioned, he shall, in the case of immovable properties cause a sketch of the site and a statement in Form A and in the case of movable properties a detailed mahazar setting out their full particulars and the estimated cost, to be prepared.

(2) If in any case the Collector considers that the valuation of the rent of a building provided in Form A should be scrutinised and approved by an Officer of the Public Works Department, he may arrange for such scrutiny and approval.

(3) After making such further enquiries as the Collector deems fit to make as to whether the requisition will serve the intended public purpose, he shall make his report to Government.

5. *Form of notice and order.*—A notice under clause (a) of sub-section (1) of section 3 and an order under Clause (b) of sub-section (1) of section 3 shall be in Form B.

6. *Form of Order of requisition and notice.*—The order of requisitioning under sub-section (2) of section 3 and notice under sub-section (1) of section 4 shall be in Form C.

7. *Manner of service of order and notice.*—The order and notice mentioned in rule 6 shall be served on the owner and if the owner is not the person in possession, they shall be served on the person in possession also.

8. *Form of notice and order under section* 5.—The notice and order under sub-section (2) of section 5 shall be in Form D.

9. *Release from requisitioning.*—(1) An enquiry under sub-section (2) of section 6 shall invariably be held whenever any person other than the person from whom the property was requisitioned claims restitution of the property on release from requisitioning.

(2) When the claimant is a successor-in-interest of the person from whom possession was taken by Government and the claim is not disputed and the claimant has produced a succession or heirship certificate or any other valid document to prove the undisputed transfer to him of the rights over the property of the person from whom possession was taken on requisitioning, the possession of the property shall be given to such person.

(3) Where there are rival claims for possession, evidence shall be taken to prove,—

(a) whether the right of possession of the person from whom possession was taken stands extinguished in due process of law;

(b) whether the right of possession of such person has been terminated by voluntary transfer of property or transfer of rights over property to the claimant during the period between the date of requisitioning and date of release;

(c) whether the claimant has been receiving compensation or rent from Government;

(d) whether the claimant has any claim for restitution of the property which has been by law established on or after the date on which the property was requisitioned.

(4) The guiding principle in deciding to whom possession should be given on release from requisitioning should be that the property has to be restored to the status which existed at the time of requisitioning.

(5) Whenever a property is released from requisitioning, the Officer who is authorised by Government to effect the release shall cause a mahazar to be written showing the condition of the property at the time of release and showing more particularly the changes in the property which occurred during the period of requisition.

(6) Release from requisitioning and restoration of possession shall be executed in the manner provided by law for delivery of possession of property in execution of the decree of a Civil Court.

10. *Form of order under section* 6.—An order under sub-section (2) of section 6 shall be in Form E.

11. *Form of notice under section* 6.—A notice under sub-section (4) of section 6 shall be in Form F.

12. *Form of notice under section* 7.—A notice under the proviso to sub-section (1) of section 7 calling upon the owner or any other person interested in a requisitioned property to show cause why the property should not be acquired shall be in Form G.

13. *Form of notice to acquire property.*—A notice under sub-section (1) of section 7 to the effect that Government have decided to acquire the property shall be in Form H.

14. *Determination of Compensation for immovable property.*—(1) In determining the rent which would have been payable for the use and occupation of the immovable property if it had been taken on lease the following matters shall also be considered for the purpose of clause (a) of sub-section (2) of section 8,—

in the case of immovable property other than buildings,—

(a) if reliable evidence is produced, the average of the rent fetched during the three preceding years;

(b) the net income from the property, in case proper accounts have been maintained;

(c) the amount of net income recognised by a competent authority for the purpose of levy of agricultural Income-tax, if any;

(d) in cases in which no proper accounts are maintained, the net income in relation to the market price shall be assessed by local inspection;

in the case of buildings,—

(e) the amount of rent for which rates or taxes have been assessed and levied by a Municipality or Panchayat or Corporation;

(f) in cases in which there is no such assessment the rent shall be fixed in accordance with the provisions followed for fixing of rent by a Rent Controller under the law relating to rent control for the time being in force.

15. *Determination of compensation for movable property.*—(1) When the movable property requisitioned or acquired is a vehicle, compensation shall be paid at the rates provided for each kind and class of vehicle in the schedule prescribed and published by Government from time to time.

(2) The rates of compensation as per a published schedule shall continue in force till a revised schedule is published by Government.

Explanation.—The term vehicle for the purpose of this rule includes Valloms, Boats and all kinds of conveyances over water driven with or without generated power.

(3) For movable property other than vehicles compensation shall be paid in accordance with the rates prevailing in the market at the time of requisitioning.

16. *Appeals.*—(a) An Appeal under sub-section (3) of section 17 shall be filed within one month of the date of communication of the order appealed against provided that the time taken for the supply of copies applied for within the period of one month of the date of the order shall be excluded from this period of limitation.

(b) Every appeal shall contain the grounds of appeal and shall be accompanied by an attested copy of the order appealed against.

(c) Government may either revise or cancel an order in appeal provided that no such order shall be passed without notice to the person affected by the order.

17. *Service of notices and orders.*—(a) Notices and orders for service shall be forwarded to the Tahsildar of the Taluk who shall arrange for service.

(b) A register of such notice containing particulars of address, date of issue and date of service shall be maintained.

18. *Officer not to enter upon any property after sunset or before sunrise.*—No officer shall, in exercise of the powers conferred by section 14, enter upon any land, building or premises after sunset or before sunrise.

FORM A

(*See* Rule 4)

Taluk	Village	Survey No.	Boundaries	Area	Particulars of trees	Crops on ground and their value	Buildings			Rent of buildings	Net income from the property	If property is on lease the lease amount
							Dwelling houses	Shops	Others			
1	2	3	4	5	6	7	8			9	10	11

Other structures and improvements		Value of land in the neighbourhood and particulars of documents to prove it	Value of land	Value of buildings	Name and address of owner	Name and address of person in possession	Name and address of Kudikidappukars, if any
Details	Value						
12		13	14	15	16	17	18

FORM B

(*See* Rule 5)

NOTICE AND ORDER

Whereas the Government are of opinion that the property described in the Schedule hereto annexed is needed/or likely to be needed for a public purpose to wit (specify the purpose) not being a purpose of the Union, and that the said property should be requisitioned;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Kerala Requisitioning and Acquisition of Property Ordinance 1981 (3 of 1981) (which have been delegated to me under section 17 of the said Ordinance by notification No.............dated..........published at page...........of the Gazette dated............)the Government/ I (Name and designation) call upon (name).......................... being the owner/person in possession of the said property to show cause within fifteen/three days of the date of service of this notice and order, upon him why the said property should not be requisitioned and Government/I further direct that neither the owner of the property nor any other person shall without my permission/permission from Government dispose of or structurally alter the said property or let it out to any person until the expiry of two months from the date of service of this instrument upon him.

(strike off the words which are not relevant)

SCHEDULE

Designation of the issuing authority.

To

....

....

FORM C

(*See* Rule 6)

ORDER AND NOTICE

In exercise of the powers conferred by sub-section (2) of section 3 and sub-section (1) of section 4 of the Kerala Requisitioniag and Acquisition of Property Ordinance, 1981 (3 of 1981) (which have been delegated to me under section 17 of the said Ordinance by notification No..........dated ....published............at page..............of he Gazette dated..................) the Government/I (name and designation) have

been satisfied after making due enquiries in accordance with the provisions of the said Ordinance and rules thereunder that it is necessary so to do, do hereby requisition the property mentioned in the attached schedule for the public purpose mentioned in notification No.......dated........published at page.............of Gazette dated and the Government/I do hereby further order (name of person) to surrender possession thereof to (specify the authority or Officer) within (time to be specified) .... and that if the said (name of person) refuses or fails to comply with the above order Government/I will take possession of the property by use of such force as may be necessary.

SCHEDULE

Designation of Officer.

To

....

....

FORM D

(*See* Rule 8)

ORDER AND NOTICE

Whereas the premises described in the schedule hereto annexed have been requisitioned under section 3 of the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 (3 of 1981).

And whereas the said premises are in need of repairs specified in the schedule hereto annexed;

Now therefore, in exercise of the powers conferred by sub-section (2) of section 5 of the said Ordinance, which have been delegated to me under section 17 of the Ordinance by Notification No...........dated.......... published at page............of Gazette dated............I.......... (enter name).............(enter designation) do hereby order .... (name of person) the landlord of the said premises to execute the repairs specified in the schedule, being repairs which are necessary and are usually made by landlords in the locality in which the premises are situated, within a period of ....(specify period) from the date of service of this notice.

If the said landlord fails to execute the repairs specified in this order within the aforesaid period, I shall cause the same to be executed at his expense

and the cost thereof shall without prejudice to any other mode of recovery be deducted from the compensation payable to him.

(Strike out portions which are not relevant.)

SCHEDULE

Signature:

Designation:

To

....

....

FORM E

(*See* Rule 10)

ORDER

WHEREAS the property specified in the schedule hereto annexed was requisitioned by the order of the................No.............dated....

AND WHEREAS the Government have now decided that the said property shall be released from requisition with effect from .... (specify date).

NOW, THEREFORE, in exercise of the powers conferred by sub-section (2) of section 6 of the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 (3 of 1981)/which have been delegated to me under section 17 of the said Ordinance by Notification No.......dated..........published at page............of ....Gazette dated........the Government/ I (here enter name and designation) specify Shri /Sarvashri.............. as the person/ persons to whom possession of the said property shall be given. I do further direct that the property shall be delivered to the said person/ persons.

(Strike out portions which are not relevant.)

SCHEDULE

Signature:

Designation:

To

....

....

FORM F

(*See* Rule 11)

NOTICE

WHEREAS the property specified in the schedule hereto annexed was requisitioned by the order of the..............No.........dated.......... with effect from (specify date) .

AND WHEREAS the Government have decided that the said property shall be released from requisition;

AND WHEREAS in exercise of the powers conferred by sub-section (2) of section 6 of the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 (3 of 1981) the Government/I (Name and designation) have specified Shri....................as the person to whom possession of the said property shall be given;

AND WHEREAS the said Shri....................cannot be found and has no agent or other person empowered to accept delivery on his behalf;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (4) of section 6 of the said Ordinance/which have been delegated to me under section 17 of the said Ordinance by Notification No...........dated........ published at page..........of Gazette dated............the Government/ I do hereby declare that the said property is released from requisition.

(Strike out portions which are not relevant.)

SCHEDULE

Signature:

Designation:

To

....

....

FORM G

(*See* Rule 12)

NOTICE

WHEREAS the Government are of opinion that the property described in the Schedule hereto annexed which is subject to requisition should be acquired for a public purpose to wit (specify purpose);

NOW, THEREFORE, in exercise of the powers conferred by the proviso to sub-section (1) of section 7 of the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 (3 of 1981) the Government do hereby call upon Shri........................being the owner of the said property to show cause within fifteen days of the date of service of this notice upon him why the said property should not be acquired.

SCHEDULE

Signature:

Designation:

To

....

....

FORM H

(*See* Rule 13)

NOTICE

WHEREAS a notice under the proviso to sub-section (1) of section 7 of the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 (3 of 1981) was issued by the Government to Shri....................being the owner of the said property calling upon him to show cause within the period specified therein why the said property should not be acquired;

AND WHEREAS the said period has expired and no cause has been shown against the said notice/the cause shown against the said notice has been considered;

NOW, THEREFORE, in exercise of the powers of sub-section (1) of section 7 of the said Ordinance, the Government having been satisfied that it is necessary so to do, Government have decided to acquire the said property in pursuance of the said section.

SCHEDULE

Signature:

Designation:

To

....

....

By order of the Governor,

V. KRISHNAMURTHY,
Secretary to Government.

Explanatory Note

(This is not part of the rules, but is intended to indicate their general purport.)

Section 22 of the Kerala Requisitioning and Acquisition of Property Ordinance, 1981 provides for the making of rules by the Government for carrying out the purposes of the said Ordinance. These rules are intended for carrying out the purposes of the said Ordinance.

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